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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

In re C.Y. et al., Persons Coming Under the
Juvenile Court Law.

SAN DIEGO COUNTY HEALTH &
HUMAN SERVICES AGENCY,

Plaintiff and Respondent,

v.

C.Y.,

Defendant and Appellant.

D049817

(Super. Ct. No. J515547C/D)

APPEAL from a judgment of the Superior Court of San Diego, Julia Craig Kelety,
Judge. Affirmed.

C.Y.¹ appeals the termination of his parental rights and the selection of a
permanent plan of adoption for his sons. He contends the court erred in not applying the

¹ The minors who are the subject of this appeal also have the initials C.Y. To avoid confusion we refer to them as "sons" or "boys" and the father as C.Y.

exceptions for sibling relationships (Welf. & Inst. Code,² § 366.26, subd. (c)(1)(E)), and a beneficial parent-child relationship (§ 366.26, subd. (c)(1)(A)). We affirm the judgment.

FACTS

In August 2004, C.Y.'s sons and their older two half-siblings were taken into protective custody after the mother, S.W., and C.Y. were arrested for drug-related offenses. A search of the family home revealed a loaded weapon as well as drugs within the children's reach. C.Y. admitted using drugs while he watched the children when S.W. was at work. When the children were taken into protective custody, one son was a year old, the other was three years old.

By September 2004, both C.Y.'s sons and their older half-siblings had been placed with their maternal grandmother. C.Y. and S.W. failed to reunify with the children. S.W. had unsupervised daily visits with the children and a "close bond" with them. The children also had strong sibling bonds. C.Y. was incarcerated on the drug charges. S.W. indicated to the social worker that she was unable to provide a stable home for the children and wanted them to be adopted by their grandmother whom she believed would provide them with a secure, stable, loving and permanent home. C.Y. in a letter received by the social worker in March 2006 stated he had "no problem" with the grandmother adopting his sons, but "if it was anybody else [he] would fight the adoption."

² All statutory references are to the Welfare and Institutions Code unless otherwise specified.

San Diego County Health & Human Services Agency (the Agency) recommended parental rights be terminated as to the sons and a permanent plan of adoption be selected, noting that the grandmother had been identified as a prospective adoptive parent, she had known the boys since birth, she had a close relationship with them and a clear understanding of their emotional needs. The Agency noted the grandmother was a good role model, had no criminal or child welfare services history, had the capacity to meet the boys' needs and was motivated and committed to providing a good home. The Agency stated that if adoption by the grandmother was not available, there were currently nine approved adoptive families in San Diego who were interested in adopting both boys, 13 families interested in a child with characteristics similar to the older boy, and 26 families interested in a child with similar characteristics as to the younger boy. As to the half-siblings, the Agency recommended both children remain with the grandmother, one under a plan of guardianship, the other under a planned permanent living arrangement.

At the section 366.26 hearing, the court accepted by stipulation C.Y.'s testimony seeking a plan other than adoption so that he would have an opportunity to reunify with his sons after he was released from prison. His attorney argued that since the sons were very close and there was "no guarantee" that they would be kept together if not adopted by the grandmother, the sibling exception to adoption should be applied.

The court noted that the boys could not wait forever for C.Y. to be released from custody and reunify and that both boys were likely to be adopted if parental rights were terminated. The court found no exceptions to a permanent plan of adoption existed and

terminated the parental rights of C.Y. and S.W. to their sons. The court also made a finding the grandmother "will be the prospective adoptive parent."

DISCUSSION

I

Sibling Exception

"Adoption, where possible, is the permanent plan preferred by the Legislature." (*In re Autumn H.* (1994) 27 Cal.App.4th 567, 573.) If a court finds a child cannot be returned to his or her parent and is likely to be adopted if parental rights are terminated, it must select adoption as the permanent plan unless it finds termination of parental rights would be detrimental to the child under one of six specified exceptions. (§ 366.26, subd. (c)(1)(A)-(F); *In re Erik P.* (2002) 104 Cal.App.4th 395, 401.)

Among the specified exceptions to adoption is the sibling exception. (§ 366.26, subd. (c)(1)(E).) This exception applies if termination of parental rights " 'would be detrimental to the child' because '[t]here would be a substantial interference with a child's sibling relationship' " (*In re Daniel H.* (2002) 99 Cal.App.4th 804, 811.) This exception is intended to preserve long-standing sibling relationships that serve as "anchors for dependent children whose lives are in turmoil." (*In re Erik P., supra*, 104 Cal.App.4th 395, 404.) "The parent bears the burden of proving both the existence of the sibling relationship and that its severance would be detrimental to the child." (*In re Valerie A.* (2006) 139 Cal.App.4th 1519, 1523; § 366.26, subd. (c)(1)(E).) The sibling relationship exception contains "strong language creating a heavy burden for the party opposing adoption." (*In re Daniel H.*, at p. 813.)

Here, the evidence showed there was a strong sibling relationship among all the children; C.Y.'s sons were not only bonded to each other but also to their half-siblings. The two half-siblings would continue to live in the grandmother's home, one in a plan of guardianship, the other under a planned permanent living arrangement. The evidence also showed the maternal grandmother was likely to be approved for adoption. To say that it would be detrimental to order adoption because there was "no guarantee" that the siblings would remain together is speculative. The evidence showed that the grandmother wanted to adopt the sons and she was extremely likely to be approved for adoption — she had provided a good home for them for several years, they were bonded to her, and there was not the slightest hint of any impediment to her adopting them. Moreover, guardianship would not serve the sons' important need for a permanent and stable home. Therefore, we find C.Y. failed to meet his burden of showing the sibling exception of section 366.26, subdivision (c)(1)(E) mandated that the court not terminate his parental rights and order adoption.

II

Beneficial Parent-Child Relationship

C.Y. contends the beneficial parent-child relationship exception contained in section 366.26, subdivision (c)(1)(A) also applies in this case. His argument is based not on his own beneficial relationship with his sons, but on S.W.'s relationship with them.

C.Y., however, has no standing to raise this issue. A parent may not raise issues on appeal which do not affect his or her own rights. (*In re Jasmine J.* (1996) 46 Cal.App.4th 1802, 1806.) C.Y.'s interest is limited to continuation or termination of his

own parental rights. (*In re Caitlin B.* (2000) 78 Cal.App.4th 1190, 1193.) Moreover, "[a]n appellant cannot urge errors which affect only another party who does not appeal." (*In re Gary P.* (1995) 40 Cal. App. 4th 875, 877.)

Here, S.W. did not appeal and she specifically indicated she wanted the grandmother to adopt her sons. To allow C.Y. to raise her beneficial parent-child relationship as precluding adoption and the termination of parental rights is procedurally improper and is directly contrary to her expressed desires.

DISPOSITION

The judgment is affirmed.

McCONNELL, P. J.

WE CONCUR:

HUFFMAN, J.

IRION, J.